S.B.CR. MISC. BAIL APPLICATION NO.5163/2007

(Bhera Vs. State of Rajasthan)

Date of Order :: October 22, 2007

HON'BLE MR. H.R.PANWAR,J.

Mr. Rakesh Arora, for the petitioner.
Mr. Ashok Upadhyaya, P.P. for the State.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned.

The petitioner seeks anticipatory bail for the offence under section 16/54 of the Rajasthan Excise Act (for short `the Act' hereinafter).

Section 49 of the Act recently came to be amended, which prohibits the grant of anticipatory bail under section 438 Cr.P.C. Section 49(2) of the Act provides that nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence punishable under the proviso to section 54, or under sections 54B, 54D or 56 of this Act.

Keeping in view the amended provisions of section 49 of

the Act, which takes away the powers of anticipatory bail under section 438 Cr.P.C., in my view, it is not a fit case to grant anticipatory bail to the petitioner.

The bail application filed by the petitioner under section 438 Cr.P.C. is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-